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FEDERAL COMMUNICATIONS COMMISSION
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March 29, 2002

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: MM Docket No. 01-159
RM-10164, RM-10395
Comanche, Mullin, and Mason, Texas

Dear Mr. Caton:

Transmitted herewith, on behalf of M&M Broadcasters, Ltd., are an original and four copies of its "Reply Comments on Counterproposal" in the above-referenced proceeding.

Should any questions arise concerning this matter, please communicate with this office.

Very truly yours,



Anne Goodwin Crump
Counsel for M&M Broadcasters, Ltd.

Enclosures

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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MAR 29 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 01-159
Table of Allotments, FM Broadcast Stations.)	RM-10164
(Comanche, Mullin, and Mason, Texas))	RM-10395

Directed to: Chief, Audio Division

REPLY COMMENTS ON COUNTERPROPOSAL

M&M Broadcasters, Ltd. ("M&M"), by its attorneys, hereby respectfully submits its Reply Comments with regard to the Counterproposal of Mullin Broadcasters in the above-captioned proceeding. These Reply Comments are being submitted in response to the Commission's *Public Notice*, Report No. 2539, released March 15, 2002. With respect thereto, the following is stated:

1. The instant proceeding commenced with the filing of a petition for rule making by Charles Crawford proposing the allotment of Channel 224A at Comanche, Texas, as that community's third local radio transmission service. Thereafter, the Commission released its *Notice of Proposed Rule Making*, DA 01-1736, released July 20, 2001 ("*NPRM*"), in this proceeding, proposing the allotment to Comanche. Mullin Broadcasters submitted its Counterproposal in response to the *NPRM*, in which Mullin Broadcasters counterproposed the allotment of Channel 224C3 to Mullin at its first local service and the substitution of Channel 259A for vacant Channel 224A at Mason, Texas, in order to accommodate that proposal.

2. M&M hereby expresses its support for the proposal to allot Channel 224C3 at Mullin

as that community's first local broadcast service. Further, if the channel is allotted, it is M&M's present intention to submit an application for construction permit for the facility, and if its application is granted, to construct such a facility in accordance with its construction permit. Mullin is clearly a community in need of a first local broadcast service to serve the needs of both the businesses of the community, a number of which are described in the Mullin Broadcasters Counterproposal, and the residents of the community and the surrounding area. While the population of the community itself is relatively small, the number of businesses and community organizations present there clearly indicate that it is a community which provides services to residents throughout the surrounding area.

3. In his Reply Comments in this proceeding, Crawford indicated that it would be possible to allot Channel 263A at Mullin in lieu of Channel 224C3 as proposed by Mullin Broadcasters. It is quite clear, however, that the channel proposed by Crawford is clearly far from being an equivalent proposal for the community of Mullin. Further, the tight spacing constraints, as set forth in the channel search attached to Crawford's own Reply Comments, would both limit the usefulness of the channel at Mullin and preclude any future upgrades of the channel in the future. Moreover, in a rural area such as Mullin, the wide-area channel is essential to the viability of a station. Because the residents of such areas are spread over wider distances, a more powerful facility is necessary to provide meaningful service to the area. Moreover, in such relatively isolated areas, the availability of a local broadcast service is especially critical to provide local emergency weather and other notices and to provide coverage of important local issues.

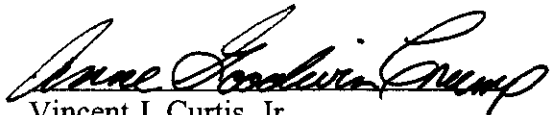
4. Crawford has claimed that the filing of a separate rule making proposal for Eldorado,

Texas, filed by Linda Crawford on September 5, 2001, somehow precludes the proposed channel substitution at Mason necessary to accommodate the Mullin allotment. Such is not the case, however. It is an elementary matter of law that the mere filing of a petition for rule making does not preclude the filing of a later, inconsistent proposal. Unlike modification applications for already authorized facilities, a petition for rule making does not receive “cut-off” protection as of the day of filing. See, *e.g.*, *Conflicts Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments*, 8 FCC Rcd 4743 (1993). Thus, the filing of the Eldorado petition in no way precludes the modification of the vacant Mason allotment to specify Channel 259A.

5. In sum, M&M hereby expresses its support for the allotment of Channel 224C3 to Mullin. This allotment would provide substantial public interest benefits by providing a first local service to a community clearly in need of such service. Accordingly, M&M respectfully requests that the Commission expeditiously amend the FM Table of Allotments to add Channel 224C3 at Mullin and open a filing window for applications for construction permit for that channel.

Respectfully submitted,

M&M BROADCASTERS, LTD.

By: 
Vincent J. Curtis, Jr.
Anne Goodwin Crump

Its Attorneys

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March 29, 2002

CERTIFICATE OF SERVICE

I, Suzanne E. Thompson, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C. do hereby certify that true copies of the foregoing "Reply Comments on Counterproposal" were sent this 29th day of March, 2002, by United States mail, postage prepaid, to the following:

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